

### **REMARKS**

Reconsideration of this application is respectfully requested.

Claims 27-47 were pending in the application and have now been canceled in favor of new claims 48-68. Accordingly, claims 48-68 are presented for further examination in this application.

The title of the invention has been changed to reflect more appropriately the nature of the claimed subject matter, i.e., a transparent non-porous or translucent non-porous system for detecting an oligo- or polynucleotide sequence of interest.

In a sincere effort to obviate the rejection for lack of utility under 35 U.S.C. §101 which is the sole remaining issue in this application, Applicants are presenting new claims 48-68. In the former claims 27-46 now canceled, a composition was recited "which comprises *inter alia* a double-stranded oligonucleotide or polynucleotide which is directly or indirectly fixed or immobilized to a solid support." In new claims 48-68, the recitation of a double-stranded oligonucleotide or polynucleotide is no longer present, thus placing the instant claims in *prima facie* condition for allowance.

In further detail, the new claims 48-68 are largely directed to a transparent non-porous or translucent non-porous system for detecting an oligo- or polynucleotide sequence of interest. As set forth in independent claim 48, the system comprises "(i) an oligonucleotide or polynucleotide capable of hybridizing to said oligo- or polynucleotide sequence of interest and comprising a label that comprises a signalling moiety capable of generating a soluble signal; and (ii) a solid support capable of directly or indirectly fixing or immobilizing said oligo- or polynucleotide sequence of interest or said oligonucleotide or polynucleotide . . . ." Other dependent claims are directed to the solid support being contained within the transparent non-porous or translucent non-porous system (claim 49); the solid support (claims 50 and 51); Markush members for the system (claim 52); the materials for the solid support and the system (claims 53 and 54); indirect fixing/immobilization of sequence of interest (claims 55 and 56) and oligonucleotide or polynucleotide (claim 57); relationship of label to the signalling moiety (claim 58); attachment of the label (claims 59-63); attachment of the signalling moiety (claim 64); Markush

members for the signalling moiety (claim 65); generation of the soluble signal (claims 66 and 67); and an apparatus (claim 68).

Applicants respectfully submit that newly presented claims 48-68 are similar - even identical - in many respects to the previously pending and now canceled claims, and moreover, are fully supported by the original disclosure. The presentment of claims 48-68 does not raise any issue of new matter nor any other issues requiring further consideration and/or search. Further, the new claims do not present additional claims, the former claims being identical in number and having been canceled therefor. Moreover, the new claims are deemed to place the instant application in better form for appeal by materially reducing or simplifying the issues for appeal, in this instance, the question of utility under 35 U.S.C. §101. Accordingly, the entry of the new claims is urged so that prosecution on the merits can be concluded.

In light of the subject matter now being claimed, Applicants respectfully request reconsideration and withdrawal of the utility rejection, thereby placing all of the newly presented claims, 48-68, in allowable condition.

In order to expedite review, Applicants' attorney is filing this Supplemental Amendment and the Request For Extension of Time (One Month) by Express Mail, and is also sending by courier a courtesy copy of the Supplemental Amendment to Examiner (Dr.) Ardin Marschel, Group Art Unit 1807.

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### **SUMMARY AND CONCLUSIONS**

Claims 48-68 are presented for further examination in place of the previously pending and now canceled claims 27-47.

This Supplemental Amendment is accompanied by a Request For Extension of Time (One Month) and authorization for the fee therefor. Accordingly, this Supplemental Amendment is being timely filed. In the event that any other fee or fees are due in connection with this response, The Patent and Trademark Office is hereby authorized to charge the amount of any such fee(s) to Deposit Account 05-1135, or to credit any overpayment thereto.

In view of the presentation of the new claims and cancellation of the former claims, Applicants respectfully submit that the instant application is now in condition for allowance. An indication of its allowable condition is respectfully requested. If any of the newly presented claims 48-68 are found not to be allowable for any reason, the Examiner is respectfully requested to telephone the undersigned at (212) 856-0876 to discuss the subject application.

Respectfully submitted,



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